

SENATE

STATE OF MINNESOTA

EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1641

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DATE	D-PG	OFFICIAL STATUS
05/02/2013	3195	Introduction and first reading Referred to Health, Human Services and Housing

A bill for an act
relating to health; permitting the medical use of marijuana; setting fees;
authorizing rulemaking; providing criminal and civil penalties; appropriating
money; amending Minnesota Statutes 2012, section 13.3806, by adding a
subdivision; proposing coding for new law in Minnesota Statutes, chapter 152.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2012, section 13.3806, is amended by adding a
subdivision to read:

Subd. 22. **Medical use of marijuana data.** Data collected by the commissioner of
health relating to registrations for the medical use of marijuana are classified in section
152.33.

Sec. 2. **[152.22] DEFINITIONS.**

Subdivision 1. **Applicability.** For purposes of sections 152.22 to 152.38, the terms
defined in this section have the meanings given them.

Subd. 2. **Allowable amount of marijuana.** (a) "Allowable amount of marijuana"
means:

(1) with respect to a qualifying patient, 2.5 ounces of usable marijuana and if
the qualifying patient's registry identification card states that the qualifying patient is
authorized to cultivate marijuana:

(i) 12 marijuana plants contained in an enclosed, locked facility, except the plants
are not required to be in an enclosed, locked facility if the plants are being transported
because the qualifying patient is moving; and

(ii) marijuana that is produced from allowable plants that is on the premises where
the plants were grown;

(2) with respect to a designated caregiver, for each patient assisted by the designated caregiver:

(i) 2.5 ounces of usable marijuana; and

(ii) if the designated caregiver's registry identification card provides that the designated caregiver is authorized to cultivate marijuana:

(A) 12 marijuana plants contained in an enclosed, locked facility, except the plants are not required to be in an enclosed, locked facility if the plants are being transported because the designated caregiver is moving; and

(B) marijuana that is produced from allowable plants that is on the premises where the plants were grown.

(b) Marijuana that is incidental to medical use, but is not usable marijuana as defined in subdivision 16, may not be counted toward a qualifying patient's or designated caregiver's allowable amount of marijuana.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 4. **Cardholder.** "Cardholder" means a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card.

Subd. 5. **Debilitating medical condition.** "Debilitating medical condition" means:

(1) cancer, glaucoma, acquired immune deficiency syndrome, hepatitis C, Tourette's syndrome, amyotrophic lateral sclerosis, post-traumatic stress disorder, or the treatment of those conditions;

(2) a chronic or debilitating disease or medical condition or its treatment that produces cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures, including those characteristic of epilepsy; severe and persistent muscle spasms, including those characteristic of multiple sclerosis; and Crohn's disease;

(3) the condition of an HIV-positive patient when the patient's physician believes the patient could benefit from consumption of marijuana; or

(4) any other medical condition or its treatment approved by the commissioner.

Subd. 6. **Designated caregiver.** "Designated caregiver" means a person who is at least 21 years old and who has agreed to assist no more than five qualifying patients with the medical use of marijuana.

Subd. 7. **Enclosed, locked facility.** "Enclosed, locked facility" means a closet, room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.

Subd. 8. **Medical marijuana dispensary.** "Medical marijuana dispensary" means an entity registered under section 152.25 that cultivates, acquires, manufactures, possesses, prepares, packs, stores, delivers, transfers, transports, sells, supplies, or

dispenses marijuana, paraphernalia, or related supplies and educational materials to registered qualifying patients or registered designated caregivers.

Subd. 9. **Medical marijuana organization.** "Medical marijuana organization" means a medical marijuana dispensary or a safety compliance facility.

Subd. 10. **Medical use of marijuana.** "Medical use of marijuana" means the acquisition, possession, use, administration, preparation, planting, cultivation, propagation, harvesting, production, processing, manufacture, testing, compounding, converting, delivery, transfer, or transportation of marijuana or drug paraphernalia, as defined in section 152.01, subdivision 18, relating to the consumption of marijuana to alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the medical condition.

Subd. 11. **Practitioner.** "Practitioner" means a Minnesota licensed doctor of medicine, a Minnesota licensed doctor of osteopathy licensed to practice medicine, a Minnesota licensed physician assistant acting within the scope of authorized practice, or a Minnesota licensed advance practice registered nurse, except that if the qualifying patient's debilitating medical condition is post-traumatic stress disorder, the practitioner must be a licensed psychiatrist.

Subd. 12. **Qualifying patient.** "Qualifying patient" means a person who has been diagnosed by a practitioner as having a debilitating medical condition.

Subd. 13. **Registration certificate.** "Registration certificate" means a document issued by the commissioner that identifies an entity as a medical marijuana dispensary or a safety compliance facility.

Subd. 14. **Registry identification card.** "Registry identification card" means a document issued by the commissioner that identifies a person as a registered qualifying patient or registered designated caregiver.

Subd. 15. **Safety compliance facility.** "Safety compliance facility" means an entity registered under section 152.25 to provide consumer protection services to the public by means of laboratory sampling and testing for potency and contaminants or public information and training services regarding:

(1) the safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana;

(2) security and inventory accountability procedures; or

(3) scientific and medical research findings related to medical marijuana.

Subd. 16. **Usable marijuana.** "Usable marijuana" means the flowers of the marijuana plant, or any mixture or preparation of them, but does not include the seeds, stalks, leaves, and roots of the plant and does not include the weight of any nonmarijuana

ingredients combined with marijuana, including ingredients added to prepare a topical administration, food, or drink.

Subd. 17. **Visiting qualifying patient.** "Visiting qualifying patient" means a person who was diagnosed with a debilitating medical condition by a person who is licensed with authority to prescribe drugs to humans in the state of the person's residence; who possesses a registry identification card, or its equivalent, that was issued pursuant to the laws of another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States; and who is not a resident of Minnesota or has been a resident of Minnesota fewer than 30 days.

Subd. 18. **Written certification.** "Written certification" means a document signed and dated by a licensed practitioner stating, that in the practitioner's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition. The practitioner must: (1) specify the qualifying patient's debilitating medical condition in the written certification; and (2) sign and date the written certification only in the course of a practitioner-patient relationship after the practitioner has completed a full physical examination of the qualifying patient and a full assessment of the qualifying patient's medical history and current medical condition.

Sec. 3. [152.23] LIMITATIONS.

Sections 152.22 to 152.38 do not permit any person to engage in and do not prevent the imposition of any civil, criminal, or other penalties for:

(1) undertaking any task under the influence of marijuana that would constitute negligence or professional malpractice;

(2) possessing or engaging in the medical use of marijuana:

(i) on a school bus;

(ii) on the grounds of any preschool or primary or secondary school; or

(iii) in any correctional facility;

(3) smoking marijuana:

(i) on any form of public transportation;

(ii) where the smoke would be inhaled by a minor child; or

(iii) in any public place; and

(4) operating, navigating, or being in actual physical control of any motor vehicle, aircraft, train, or motorboat, or working on transportation property, equipment, or facilities while under the influence of marijuana.

5.1 Sec. 4. **[152.24] RULEMAKING.**

5.2 The commissioner shall adopt rules that set forth the procedures and methods for
5.3 implementing sections 152.22 to 152.38, including:

5.4 (1) receiving petitions from the public to add debilitating medical conditions or
5.5 treatments to the list of debilitating medical conditions in section 152.22, subdivision 5,
5.6 and requiring public notice of a public hearing, and the opportunity to comment upon any
5.7 petition;

5.8 (2) establishing the form and content of registration and renewal applications
5.9 submitted under sections 152.22 to 152.38;

5.10 (3) establishing a system to numerically score competing medical marijuana
5.11 dispensary applicants that must include analysis of:

5.12 (i) the suitability of the proposed location and its accessibility for patients;

5.13 (ii) the character, veracity, background, and relevant experience of principal officers
5.14 and board members; and

5.15 (iii) the business plan proposed by the applicant, including its ability to maintain
5.16 an adequate supply of marijuana, plans to ensure safety and security of patrons and
5.17 the community, procedures to be used to prevent diversion, and any plan for making
5.18 marijuana available to low-income registered qualifying patients;

5.19 (4) establishing a system to consider applications for and renewals of registry
5.20 identification cards;

5.21 (5) establishing standards for medical marijuana organizations to prevent diversion
5.22 and theft without imposing an undue burden or compromising the confidentiality of
5.23 cardholders, including:

5.24 (i) receiving applications for and renewals of registration certificates;

5.25 (ii) oversight requirements;

5.26 (iii) record-keeping requirements;

5.27 (iv) security requirements, including requirements for protection of each location by
5.28 a fully operational security alarm system;

5.29 (v) safety requirements; and

5.30 (vi) requirements and procedures for the safe and accurate packaging and labeling of
5.31 medical marijuana;

5.32 (6) requiring the labeling of marijuana and marijuana products sold by medical
5.33 marijuana dispensaries; and

5.34 (7) establishing procedures for suspending or revoking the registration certificates or
5.35 registry identification cards of medical marijuana organizations or cardholders who violate
5.36 the provisions of sections 152.22 to 152.38 or the rules adopted under this section.

Sec. 5. **[152.25] REGISTRATION AND CERTIFICATION OF MEDICAL MARIJUANA ORGANIZATIONS.**

Subdivision 1. **Registration.** Not later than 90 days after receiving an application for a medical marijuana organization, the commissioner shall register the prospective medical marijuana organization and issue a registration certificate and a random 20-digit alphanumeric identification number if all of the following conditions are satisfied:

(1) the prospective medical marijuana organization has submitted all of the following:

(i) the application fee for a dispensary of \$15,000; if the application is not approved, \$14,000 will be refunded;

(ii) the application fee for a safety compliance facility of \$5,000; if the application is not approved, \$4,000 will be refunded;

(iii) an application, including:

(A) the legal name of the prospective medical marijuana organization;

(B) the physical address of the prospective medical marijuana organization that is not within 1,000 feet of a public or private school existing before the date of the medical marijuana organization's application;

(C) the name and date of birth of each principal officer and board member of the proposed medical marijuana organization;

(D) the name and date of birth of each additional agent of the proposed medical marijuana organization; and

(E) any additional information requested by the commissioner;

(iv) operating procedures consistent with rules for oversight of the proposed medical marijuana organization, including procedures to ensure accurate record keeping and adequate security measures; and

(v) if the city or county where the proposed medical marijuana organization would be located has enacted zoning restrictions, a sworn statement certifying that the proposed medical marijuana organization is in compliance with the restrictions;

(2) none of the principal officers or board members of the medical marijuana organization has served as a principal officer or board member for a medical marijuana organization that has had its registration certificate revoked;

(3) none of the principal officers or board members of the medical marijuana organization is under 21 years of age; and

(4) if the proposed medical marijuana organization is a medical marijuana dispensary applicant, it is located in a county with more than 20,000 permanent residents and:

(i) the county does not already contain one medical marijuana dispensary if it has a population of 300,000 or fewer;

(ii) the county does not already contain two medical marijuana dispensaries if the county has a population of at least 300,000 and fewer than 1,000,000; and

(iii) the county does not already contain three medical marijuana dispensaries if the county has a population of at least 1,000,000.

Subd. 2. **Additional dispensaries.** The commissioner may register additional medical marijuana dispensaries at its discretion.

Subd. 3. **Competing applications.** When competing applications are submitted for a proposed medical marijuana dispensary within a single county, the commissioner shall use an impartial and numerically scored competitive bidding process to determine which application or applications among those competing will be approved. The commissioner may conduct a background check of the principal officers and board members of the prospective medical marijuana dispensary to carry out this provision.

Subd. 4. **Expiration.** All registration certificates expire one year after the date of issue.

Subd. 5. **Renewal.** The commissioner shall issue a renewal registration certificate within ten days of receipt of the prescribed renewal application and renewal fee from a medical marijuana organization if its registration certificate is not under suspension and has not been revoked.

Sec. 6. [152.26] REGISTRY IDENTIFICATION CARDS.

Subdivision 1. **Registration of qualifying patients and designated caregivers.** A qualifying patient may apply to the commissioner for a registry identification card by submitting all of the following:

(1) written certification issued by a licensed practitioner within the 90 days immediately preceding the date of application;

(2) the application fee of \$100, unless the patient is on Social Security disability or Medicare and then the fee is \$25; and

(3) an application, including:

(i) name, mailing address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;

(ii) name, mailing address, and telephone number of the qualifying patient's practitioner;

(iii) name, mailing address, and date of birth of the qualifying patient's designated caregiver, if any;

(iv) a signed statement from the designated caregiver, if any, agreeing to be the patient's designated caregiver and certifying that if the application is approved the

designated caregiver will not be a registered designated caregiver for more than five registered qualifying patients; and

(v) a designation as to who will be allowed to cultivate marijuana plants for the qualifying patient's medical use if a medical marijuana dispensary is not operating within 15 miles of the qualifying patient's home.

Subd. 2. **Issuance.** (a) Except as provided in clause (2) and subdivision 4, the commissioner shall:

(1) verify the information contained in an application or renewal submitted according to sections 152.22 to 152.38 and approve or deny an application or renewal within ten days of receiving a completed application or renewal; and

(2) issue a registry identification card to a qualifying patient and the patient's designated caregiver, if any, within five days of approving the application or renewal. A designated caregiver must have a registry identification card for each of the caregiver's qualifying patients.

(b) The commissioner may not issue a registry identification card to a qualifying patient who is under the age of 18 unless:

(1) the qualifying patient's practitioner has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to the parent, guardian, or person having legal custody of the qualifying patient;

(2) at least two practitioners have issued a written certification within the 90 days immediately preceding the date of application;

(3) the parent, guardian, or person having legal custody consents in writing to allow the qualifying patient's medical use of marijuana; and

(4) a parent, guardian, or person having legal custody of the qualifying patient consents in writing to:

(i) serve as the qualifying patient's designated caregiver; and

(ii) control the acquisition of marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.

(c) If the registry identification card of either a qualifying patient or the patient's designated caregiver does not state that the cardholder is authorized to cultivate marijuana plants, the commissioner must give written notice to the registered qualifying patient, when the qualifying patient's registry identification card is issued, of the names and addresses of all registered medical marijuana dispensaries.

Subd. 3. **Contents of registry identification cards.** Registry identification cards for qualifying patients and designated caregivers must contain all of the following:

(1) name and date of birth of the cardholder;

9.1 (2) a statement of whether the cardholder is a qualifying patient or a designated
9.2 caregiver;

9.3 (3) the date of issuance and expiration date of the registry identification card;

9.4 (4) a random 20-digit alphanumeric identification number that is unique to the
9.5 cardholder and contains at least four numbers and at least four letters;

9.6 (5) if the cardholder is a designated caregiver, the random identification number of
9.7 the registered qualifying patient the designated caregiver is assisting;

9.8 (6) a photograph of the cardholder; and

9.9 (7) a clear indication of whether the cardholder has been designated to cultivate
9.10 marijuana plants for the qualifying patient's medical use.

9.11 Subd. 4. **Denial of registry identification cards.** (a) The commissioner may deny
9.12 an application or renewal of a qualifying patient's registry identification card only if the
9.13 applicant:

9.14 (1) does not meet the requirements of section 152.22, subdivision 12;

9.15 (2) does not provide the information required;

9.16 (3) previously had a registry identification card revoked for violating sections
9.17 152.22 to 152.38; or

9.18 (4) provides false information.

9.19 (b) The commissioner may deny an application or renewal of a designated
9.20 caregiver's registry identification card only if the applicant:

9.21 (1) does not meet the requirements of section 152.22, subdivision 6;

9.22 (2) does not provide the information required;

9.23 (3) previously had a registry identification card revoked for violating sections
9.24 152.22 to 152.38; or

9.25 (4) provides false information.

9.26 (c) The commissioner shall give written notice to the qualifying patient of the reason
9.27 for denying a registry identification card to the qualifying patient or to the qualifying
9.28 patient's designated caregiver.

9.29 (d) Denial of an application or renewal is considered a final decision of the
9.30 commissioner and is subject to judicial review.

9.31 Subd. 5. **Expiration.** All registry identifications cards expire one year after the
9.32 date of issue.

9.33 Subd. 6. **Lost registry identification cards.** If a registry identification card is
9.34 lost, the cardholder shall promptly notify the commissioner. Within five days of the
9.35 notification, and upon payment of a \$25 fee, the commissioner shall issue a new registry
9.36 identification card with a new random identification number to the cardholder and, if

the cardholder is a registered qualifying patient, to the registered qualifying patient's registered designated caregiver, if any.

Sec. 7. [152.27] NOTIFICATIONS.

(a) A registered qualifying patient shall notify the commissioner within ten days of any change in the registered qualifying patient's name, mailing address, designated caregiver, preference regarding who may cultivate marijuana for the registered qualifying patient, address where marijuana plants are cultivated, or if the registered qualifying patient ceases to have a debilitating medical condition.

(b) A registered designated caregiver shall notify the commissioner within ten days of any name change or change in mailing address.

(c) If a cardholder notifies the commissioner of any changes listed in this section, but remains eligible under sections 152.22 to 152.38, the commissioner shall issue the cardholder a new registry identification card with new random 20-digit alphanumeric identification numbers within ten days of receiving the updated information and a \$10 fee. If the person notifying the commissioner is a registered qualifying patient, the commissioner shall also issue the patient's registered designated caregiver, if any, a new registry identification card within ten days of receiving the updated information.

(d) If the registered qualifying patient's certifying practitioner notifies the commissioner in writing that either the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use of marijuana, the card is void upon notification to the qualifying patient, and the registered qualifying patient has 15 days to dispose of any marijuana.

(e) If a registered qualifying patient ceases to be a registered qualifying patient or changes the registered designated caregiver, the commissioner shall promptly notify the designated caregiver that the caregiver's duties and rights under sections 152.22 to 152.38 for the qualifying patient expire 15 days after the commissioner sends notification.

(f) A medical marijuana organization shall notify the commissioner within one business day of any theft or significant loss of marijuana.

Sec. 8. [152.28] MEDICAL MARIJUANA ORGANIZATION REQUIREMENTS.

(a) The operating documents of a medical marijuana organization must include procedures for the oversight of the medical marijuana organization and procedures to ensure accurate recordkeeping.

11.1 (b) A medical marijuana organization shall implement appropriate security measures
11.2 to deter and prevent the theft of marijuana and unauthorized entrance into areas containing
11.3 marijuana.

11.4 (c) All cultivation, harvesting, manufacturing, and packaging of marijuana must take
11.5 place in an enclosed, locked facility at a physical address provided to the commissioner
11.6 during the registration process.

11.7 (d) A medical marijuana dispensary may acquire usable marijuana or marijuana
11.8 plants from a registered qualifying patient or a registered designated caregiver only if the
11.9 registered qualifying patient or registered designated caregiver receives no compensation
11.10 for the marijuana.

11.11 (e) A medical marijuana organization shall not share office space with or refer
11.12 patients to a practitioner.

11.13 (f) A medical marijuana organization may not permit any person to consume
11.14 marijuana on the property of a medical marijuana organization.

11.15 (g) Medical marijuana organizations are subject to reasonable inspection by the
11.16 commissioner. The commissioner shall give reasonable notice of an inspection.

11.17 (h) A medical marijuana organization may not employ or otherwise allow any person
11.18 who is under 21 years of age to be an agent of the medical marijuana organization.

11.19 (i) Before marijuana may be dispensed to a registered qualifying patient or a
11.20 registered designated caregiver, a registered medical marijuana dispensary agent must:

11.21 (1) make a diligent effort to verify that the registry identification card presented to
11.22 the medical marijuana dispensary is valid;

11.23 (2) make a diligent effort to verify that the person presenting the card is the person
11.24 identified on the registry identification card presented to the medical marijuana dispensary
11.25 agent; and

11.26 (3) not believe that the amount dispensed would cause the cardholder to possess
11.27 more than the allowable amount of marijuana.

11.28 **Sec. 9. [152.29] MEDICAL MARIJUANA ORGANIZATION LOCATIONS.**

11.29 A city may enact reasonable zoning rules that limit the use of land for medical
11.30 marijuana dispensaries or safety compliance facilities to specified areas.

11.31 **Sec. 10. [152.30] NURSING FACILITIES.**

11.32 Nursing facilities licensed under chapter 144A, or boarding care homes licensed
11.33 under section 144.50, may adopt reasonable restrictions on the use of medical marijuana
11.34 by persons receiving inpatient services. The restrictions may include a provision that the

12.1 facility will not store or maintain the patient's supply of medical marijuana, that the facility
12.2 is not responsible for providing the medical marijuana for qualifying patients, that medical
12.3 marijuana be consumed by a method other than smoking, and that medical marijuana be
12.4 consumed only in a place specified by the facility. Nothing contained in this section shall
12.5 require the facilities to adopt such restrictions, and no facility shall unreasonably limit a
12.6 qualifying patient's access to or use of medical marijuana.

12.7 Sec. 11. **[152.31] VERIFICATION SYSTEM.**

12.8 The commissioner shall establish a secure telephone or Web-based verification
12.9 system. The verification system must allow law enforcement personnel and registered
12.10 medical marijuana organizations to enter a registry identification number and determine
12.11 whether the number corresponds with a current, valid registry identification card. The
12.12 system may disclose only whether the identification card is valid, the name of the
12.13 cardholder, whether the cardholder is a qualifying patient or a designated caregiver,
12.14 whether the cardholder is permitted to cultivate marijuana plants, and the registry
12.15 identification number of any affiliated registered qualifying patient.

12.16 Sec. 12. **[152.32] ANNUAL REPORT.**

12.17 The commissioner shall report annually to the legislature on the number of
12.18 applications for registry identification cards, the number of qualifying patients and
12.19 designated caregivers approved, the nature of the debilitating medical conditions of the
12.20 qualifying patients, the number of registry identification cards revoked, and the number of
12.21 practitioners providing written certification for qualifying patients. The commissioner
12.22 must not include identifying information on qualifying patients, designated caregivers, or
12.23 practitioners in the report.

12.24 Sec. 13. **[152.33] CONFIDENTIALITY.**

12.25 (a) Data in registration applications and supporting data submitted by qualifying
12.26 patients, designated caregivers, and medical marijuana organizations, including data
12.27 on designated caregivers and practitioners, are private data on individuals or nonpublic
12.28 data as defined in section 13.02.

12.29 (b) Data kept or maintained by the commissioner may not be used for any purpose
12.30 not provided for in sections 152.22 to 152.38 and may not be combined or linked in
12.31 any manner with any other list or database.

12.32 (c) Data kept or maintained by the commissioner may be disclosed as necessary for:

(1) the verification of registration certificates and registry identification cards pursuant to section 152.31;

(2) submission of the annual report required by section 152.32;

(3) notification to state or local law enforcement of apparent criminal violations of sections 152.22 to 152.36;

(4) notification to state and local law enforcement about falsified or fraudulent information submitted for purposes of obtaining or renewing a registry identification card; and

(5) notification to the Board of Medical Practice if there is reason to believe that a practitioner provided a written certification without completing a full assessment of the qualifying patient's medical history and current medical condition or if the commissioner has reason to believe the practitioner otherwise violated the standard of care for evaluating medical conditions.

(d) Any information kept or maintained by medical marijuana organizations must identify cardholders by their registry identification numbers and not contain names or other personally identifying information.

(e) At the cardholder's request, the commissioner may confirm the cardholder's status as a registered qualifying patient or a registered designated caregiver to a third party, such as a landlord, school, medical professional, or court.

Sec. 14. **[152.34] PROTECTIONS FOR THE MEDICAL USE OF MARIJUANA.**

Subdivision 1. **Presumption.** (a) There is a presumption that a qualifying patient or designated caregiver is engaged in the authorized medical use of marijuana pursuant to sections 152.22 to 152.38. The presumption exists if the qualifying patient or designated caregiver:

(1) is in possession of a registry identification card; and

(2) is in possession of an amount of marijuana that does not exceed the allowable amount of marijuana.

(b) The presumption may be rebutted by evidence that conduct related to use of marijuana was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition pursuant to sections 152.22 to 152.38.

Subd. 2. **Qualifying patient and designated caregiver.** A registered qualifying patient or registered designated caregiver who possesses a valid registry identification card is not subject to arrest, prosecution, or penalty in any manner, including any civil penalty,

or denial of any right or privilege, or disciplinary action by a court or occupational or professional licensing board or bureau for:

(1) the registered qualifying patient's medical use of marijuana pursuant to sections 152.22 to 152.38, if the registered qualifying patient does not possess more than the allowable amount of marijuana;

(2) the registered designated caregiver assisting a registered qualifying patient to whom the caregiver is connected through the commissioner's registration process with the registered qualifying patient's medical use of marijuana pursuant to sections 152.22 to 152.34, if the registered designated caregiver does not possess more than the allowable amount of marijuana;

(3) reimbursement by a registered qualifying patient to the patient's registered designated caregiver for direct costs incurred by the registered designated caregiver for assisting with the registered qualifying patient's medical use of marijuana;

(4) transferring marijuana to a safety compliance facility for testing;

(5) compensating a medical marijuana dispensary or a safety compliance facility for goods or services provided; or

(6) offering or providing marijuana to a registered qualifying patient, to a registered designated caregiver for a registered qualifying patient's medical use, to a visiting qualifying patient, or to a medical marijuana dispensary if nothing of value is transferred in return and the person giving the marijuana does not knowingly cause the recipient to possess more than the allowable amount of marijuana.

Subd. 3. **Visiting qualifying patient.** A person who demonstrates that the person is a visiting qualifying patient shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or entity, for the medical use of marijuana pursuant to sections 152.22 to 152.38, if the visiting qualifying patient does not possess more than 2.5 ounces of usable marijuana.

Subd. 4. **Dismissal of charges.** If a qualifying patient or a designated caregiver who is not in possession of a registry identification card is arrested for possession of an amount of marijuana that does not exceed the allowable amount or is charged with this, the patient or caregiver shall be released from custody and the charges dismissed upon production of a valid registry identification card issued in the person's name.

Subd. 5. **Practitioner.** A practitioner may not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by the Board of Medical Practice or by another business, occupational, or professional licensing board or entity, based solely on providing written certifications

or for otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. Nothing in sections 152.22 to 152.38 prevents a professional licensing board from sanctioning a practitioner for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

Subd. 6. **Legal counsel.** An attorney may not be subject to disciplinary action by the Minnesota State Bar Association or other professional licensing association for providing legal assistance to prospective or registered medical marijuana dispensaries, prospective or registered safety compliance facilities, or others related to activity that is no longer subject to criminal penalties under state law pursuant to sections 152.22 to 152.38.

Subd. 7. **Arrest and prosecution prohibited.** No person may be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:

(1) providing or selling marijuana paraphernalia to a cardholder or to a medical marijuana organization upon presentation of a valid registry identification card or registration certificate; or

(2) being in the presence or vicinity of the medical use of marijuana authorized under sections 152.22 to 152.38.

Subd. 8. **Medical marijuana dispensary.** A medical marijuana dispensary or a medical marijuana dispensary agent is not subject to prosecution, search, or inspection, except by the commissioner pursuant to section 152.28, paragraph (g); seizure; or penalty in any manner; and may not be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting pursuant to sections 152.22 to 152.38, and rules authorized by sections 152.22 to 152.38 to:

(1) possess, plant, propagate, cultivate, grow, harvest, produce, process, manufacture, compound, convert, prepare, pack, repack, or store marijuana;

(2) deliver, transfer, or transport marijuana, marijuana paraphernalia, or related supplies and educational materials to or from other medical marijuana organizations;

(3) compensate a safety compliance facility for services or goods provided;

(4) accept marijuana offered by a registered qualifying patient or a registered designated caregiver if nothing of value is transferred in return;

(5) purchase or otherwise acquire marijuana from another registered medical marijuana dispensary; or

(6) dispense, supply, or sell marijuana or related supplies and educational materials to registered qualifying patients, to registered designated caregivers on behalf of registered qualifying patients, or to other medical marijuana dispensaries.

Subd. 9. **Safety compliance facility.** A safety compliance facility or a safety compliance facility agent is not subject to prosecution, search, or inspection, except by the commissioner pursuant to section 152.28, paragraph (g); seizure; or penalty in any manner; and may not be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting pursuant to sections 152.22 to 152.38 and rules authorized by sections 152.22 to 152.38, to provide the following services:

(1) acquiring, possessing, or transporting marijuana obtained from registry identification cardholders or medical marijuana organizations;

(2) returning the marijuana to the registry identification cardholder or medical marijuana organization from whom it was obtained;

(3) producing or selling educational materials related to medical marijuana;

(4) producing, possessing, selling, or transporting marijuana paraphernalia and equipment or materials other than marijuana to medical marijuana organizations or to cardholders, including lab equipment and packaging materials;

(5) testing marijuana, including for potency, pesticides, mold, or contaminants;

(6) providing training to cardholders; or

(7) receiving compensation for services or goods other than marijuana provided under sections 152.22 to 152.38.

Subd. 10. **Property rights.** Any interest in or right to property that is lawfully possessed, owned, or used in connection with the medical use of marijuana as authorized in sections 152.22 to 152.38, or acts incidental to such use, is not forfeited under sections 609.531 to 609.5318.

Subd. 11. **Discrimination prohibited.** (a) No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for the person's status as a cardholder, unless failing to do so would violate federal law or regulations or cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulations.

(b) For the purposes of medical care, including organ transplants, a registered qualifying patient's use of marijuana according to sections 152.22 to 152.38 is considered the equivalent of the authorized use of any other medication used at the discretion of a physician and does not constitute the use of an illicit substance or otherwise disqualify a qualifying patient from needed medical care.

(c) Unless a failure to do so would violate federal law or regulations or cause an employer to lose a monetary or licensing-related benefit under federal law or regulations, an employer may not discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize a person, if the discrimination is based upon either of the following:

(1) the person's status as a registered qualifying patient or a registered designated caregiver; or

(2) a registered qualifying patient's positive drug test for marijuana components or metabolites, unless the patient used, possessed, or was impaired by marijuana on the premises of the place of employment or during the hours of employment.

(d) A person shall not be denied custody of or visitation rights or parenting time with a minor solely for the person's status as a registered qualifying patient or a registered designated caregiver, and there shall be no presumption of neglect or child endangerment for conduct allowed under sections 152.22 to 152.38, unless the person's behavior is such that it creates an unreasonable danger to the safety of the minor as established by clear and convincing evidence.

Subd. 12. **Card as probable cause.** Possession of or application for a registry identification card does not constitute probable cause or reasonable suspicion, nor shall it be used to support a search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any governmental agency.

Sec. 15. [152.35] AFFIRMATIVE DEFENSE.

(a) Except as provided in section 152.23, a person may assert the medical purpose for using marijuana as a defense to any prosecution involving marijuana, and the defense shall be presumed valid if the evidence shows that:

(1) a practitioner has stated that, in the practitioner's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient has a debilitating medical condition and the potential benefits of using marijuana for medical purposes would likely outweigh the health risks for the person;

(2) the person was in possession of no more than 2.5 ounces of usable marijuana, a reasonable amount of marijuana that is not usable marijuana, and 12 marijuana plants; and

(3) the person was engaged in the acquisition, possession, use, manufacture, cultivation, or transportation of marijuana, paraphernalia, or both, relating to the

administration of marijuana to treat or alleviate the individual's debilitating medical condition or symptoms associated with the individual's debilitating medical condition.

(b) The defense and motion to dismiss shall not prevail if the prosecution proves that:
(1) the individual had a registry identification card revoked for misconduct; or
(2) the purpose of the possession of marijuana was not for palliative or therapeutic use by the individual with a debilitating medical condition who raised the defense.

(c) An individual is not required to possess a registry identification card to raise the affirmative defense set forth in this section.

(d) A person may assert the medical purpose for using marijuana in a motion to dismiss, and the charges shall be dismissed following an evidentiary hearing where the defendant shows the elements listed in paragraph (a).

(e) Any interest in or right to property that was possessed, owned, or used in connection with a person's use of marijuana for medical purposes shall not be forfeited if the person or the person's designated caregiver demonstrates the person's medical purpose for using marijuana under this section.

(f) This section shall only apply if:
(1) the person's arrest, citation, or prosecution occurred after the effective date of sections 152.22 to 152.38, but before registration for qualified patients is available; or
(2) the person's arrest or citation occurred after a valid application for a qualifying patient had been submitted but before the registry identification card was received.

Sec. 16. [152.36] SUSPENSION AND REVOCATION.

Subdivision 1. **Suspension or revocation of registration certificate.** The commissioner may by motion or on complaint, after investigation and opportunity for a public hearing at which the medical marijuana organization has been afforded an opportunity to be heard, suspend or revoke a registration certificate for multiple negligent violations or for a serious and knowing violation by the registrant or any of its agents of sections 152.22 to 152.38, or any rules adopted pursuant to section 152.24.

Subd. 2. **Notice.** The commissioner shall provide notice of suspension, revocation, fine, or other sanction, as well as the required notice of the hearing, by mailing the same in writing to the registered organization at the address on the registration certificate. A suspension shall not be longer than six months.

Subd. 3. **Suspensions.** A medical marijuana dispensary may continue to cultivate and possess marijuana plants during a suspension, but it may not dispense, transfer, or sell marijuana.

19.1 Subd. 4. **Diversion by medical marijuana dispensary.** The commissioner shall
19.2 immediately revoke the registration certificate of a medical marijuana organization that
19.3 violates section 152.37, subdivision 2, and its board members and principal officers may not
19.4 serve as board members or principal officers for any other medical marijuana organization.

19.5 Subd. 5. **Diversion by cardholder.** The commissioner shall immediately revoke the
19.6 registry identification card of any cardholder who sells marijuana to a person who is not
19.7 allowed to possess marijuana for medical purposes under sections 152.22 to 152.38, and
19.8 the cardholder is disqualified from further participation under sections 152.22 to 152.38.

19.9 Subd. 6. **Revocation of registry identification card.** The department may revoke
19.10 the registry identification card of any registered qualifying patient or registered designated
19.11 caregiver who knowingly commits a serious known violation of this chapter.

19.12 Subd. 7. **Judicial review.** Revocation is a final decision of the commissioner,
19.13 subject to judicial review.

19.14 Sec. 17. **[152.37] VIOLATIONS.**

19.15 Subdivision 1. **Failure to provide required notice; civil penalty.** A registered
19.16 qualifying patient, designated caregiver, or registered organization that willfully fails to
19.17 provide a notice required by section 152.27 is guilty of a petty misdemeanor, punishable
19.18 by a fine of no more than \$150.

19.19 Subd. 2. **Intentional diversion; criminal penalty.** In addition to any other
19.20 applicable penalty in law, a medical marijuana organization or an agent of a medical
19.21 marijuana organization who intentionally sells or otherwise transfers marijuana in
19.22 exchange for anything of value to a person other than a qualifying patient, a designated
19.23 caregiver, or a medical marijuana organization or its agent is guilty of a felony punishable
19.24 by imprisonment for not more than two years or by payment of a fine of not more
19.25 than \$3,000, or both. A person convicted under this subdivision may not continue to
19.26 be affiliated with the medical marijuana organization and is disqualified from further
19.27 participation under sections 152.22 to 152.38.

19.28 Subd. 3. **Diversion by cardholder; criminal penalty.** In addition to any other
19.29 applicable penalty in law, a registered qualifying patient or registered designated caregiver
19.30 who intentionally sells or otherwise transfers marijuana in exchange for anything of value
19.31 to a person other than a qualifying patient, a designated caregiver, or a visiting qualifying
19.32 patient is guilty of a felony punishable by imprisonment for not more than two years or by
19.33 payment of a fine of not more than \$3,000, or both.

19.34 Subd. 4. **Transfer of registry identification card; criminal penalty.** In addition
19.35 to any other applicable penalty in law, a qualifying patient or designated caregiver

who sells, transfers, loans, or otherwise gives another person the qualifying patient's or designated caregiver's registry identification card is guilty of a felony and may be sentenced to imprisonment for not more than two years, or payment of a fine of not more than \$3,000, or both.

Subd. 5. False statement; criminal penalty. A person who intentionally makes a false statement to a law enforcement official about any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by payment of a fine of not more than \$1,000, or both. The penalty is in addition to any other penalties that may apply for making a false statement or for the possession, cultivation, or sale of marijuana not protected by sections 152.22 to 152.38. If a person convicted of violating this section is a qualifying patient or a designated caregiver, the person is disqualified from further participation under sections 152.22 to 152.38.

Subd. 6. Submission of false records; criminal penalty. A person who knowingly submits false records or documentation required by the commissioner to certify a medical marijuana organization under sections 152.22 to 152.38 is guilty of a felony and may be sentenced to imprisonment for not more than two years, or payment of a fine of not more than \$3,000, or both.

Subd. 7. Violation by practitioner; criminal penalty. A practitioner who knowingly refers patients to a medical marijuana organization or to a designated caregiver, who advertises in a medical marijuana organization, or who issues written certifications while holding a financial interest in a medical marijuana organization is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days, or payment of a fine of not more than \$1,000, or both.

Subd. 8. Breach of confidentiality; criminal penalty. It is a misdemeanor for any person, including the commissioner or another state agency or local government, to breach the confidentiality of information obtained pursuant to sections 152.22 to 152.38.

Subd. 9. Other violations; civil penalty. A medical marijuana organization shall be fined up to \$1,000 for any violation of sections 152.22 to 152.38, or the regulations issued pursuant to them, where no penalty has been specified. This penalty is in addition to any other applicable penalties in law.

Sec. 18. [152.38] IMPLEMENTATION.

(a) The commissioner must begin issuing registry identification cards and registration certificates under sections 152.22 to 152.38 by October 1, 2013.

21.1 (b) If the commissioner fails to adopt rules to implement sections 152.22 to 152.38
21.2 within 120 days of July 1, 2013, any citizen may commence a mandamus action in the
21.3 district court to compel the commissioner to perform the actions mandated under sections
21.4 152.22 to 152.38.

21.5 (c) If the commissioner fails to establish the verification system required by section
21.6 152.31 within 120 days of July 1, 2013, any citizen may commence a mandamus action
21.7 in the district court to compel the commissioner to perform the actions mandated by
21.8 this chapter.

21.9 (d) If the commissioner fails to issue a registry identification card within 45 days of
21.10 submission of a valid application or renewal, the registry identification card is deemed
21.11 issued, and a copy of the registry identification card application or renewal is deemed a
21.12 valid registry identification card for one year following the date of the written certification.

21.13 (e) If at any time after the 140 days following July 1, 2013, the commissioner is not
21.14 accepting applications or has not adopted rules allowing qualifying patients to submit
21.15 applications, a notarized statement by a qualifying patient containing the information
21.16 required in an application pursuant to section 152.26, together with a written certification
21.17 issued by a practitioner within the 90 days immediately preceding the notarized statement,
21.18 are deemed a valid registry identification card.

21.19 Sec. 19. **[152.39] FEES.**

21.20 (a) The fees in sections 152.22 to 152.37 are annually appropriated and deposited
21.21 in the state government special revenue fund for use by the commissioner to administer
21.22 sections 152.22 to 152.38.

21.23 (b) The total fees collected must generate revenues sufficient to implement and
21.24 administer sections 152.22 to 152.38, except fee revenue may be offset or supplemented
21.25 by private donations.

21.26 (c) The total amount of revenue from registration certificate application and renewal
21.27 fees must be sufficient to implement and administer the provisions of sections 152.22 to
21.28 152.38 relating to medical marijuana organizations, including the verification system,
21.29 except fee revenue may be offset or supplemented by private donations.

21.30 (d) The commissioner may establish a sliding scale of patient application and
21.31 renewal fees based upon a qualifying patient's household income.

21.32 (e) The commissioner may accept private donations to reduce application and
21.33 renewal fees.

21.34 Sec. 20. **APPROPRIATIONS.**

22.1 \$256,000 in fiscal year 2014 and \$48,000 in fiscal year 2015 are appropriated from
22.2 the state government special revenue fund to the commissioner of health to implement
22.3 Minnesota Statutes, sections 152.22 to 152.38. This is a onetime appropriation.

22.4 Sec. 21. **EFFECTIVE DATE.**

22.5 Sections 1 to 20 are effective July 1, 2013.